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## PURPOSE

The Michigan Department of Health and Human Services (MDHHS) juvenile justice specialist (JJS) must verify that deoxyribonucleic acid (DNA) samples required by law have been submitted to the Michigan Department of State Police and that DNA samples or profiles have been expunged/destroyed when required by law. When procedures have not been completed as required, the juvenile justice specialist must work with the court, prosecutor, law enforcement agency and Michigan Department of State Police to resolve the identified issue(s).

## DEFINITIONS

### Felony

MCL 712A.18k, MCL 803.225a(7)(a) and MCL 803.307a(7)(a) define a "felony" as "a violation of a penal law of this state for which the offender may be punished by imprisonment for more than 1 year or an offense expressly designated by law to be a felony."

### Profile

MCL 28.172(c) and Mich Admin Code, R 28.5051(j) define "DNA identification profile" or "profile" as "the results of the DNA identification profiling of a sample, including a paper, electronic, or digital record."

### Sample

MCL 28.172(g) and MCL 712A.18k define "sample" as "a portion of an individual's blood, saliva, or tissue collected from the individual."

MCL 803.225a(7)(b) defines "sample" as "a portion of a juvenile's blood, saliva, or tissue collected from the juvenile."

MCL 803.307a(7)(b) defines "sample" as "a portion of a public ward's blood, saliva, or tissue collected from the public ward."

Mich Admin Code, R 28.5051(c) defines "sample" as "a source of cellular DNA that is collected using the DNA collection kit provided by the Michigan Department of State Police."

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## DNA SAMPLE REQUIRED

### Upon Arrest

Youth arrested for committing or attempting to commit a felony offense or an offense that would be a felony offense if committed by an adult, must have a DNA sample collected if one has not previously been collected. To determine if an offense meets the definition of a felony or attempted felony, compare the youth's offense to the Michigan Penal Code, 1931 PA 328 and/or the Michigan Public Health Code, 1978 PA 368 and review the punishment designated for the offense. If the offender may be punished by imprisonment for more than one year or the law specifically states that the offense is a felony, a DNA sample is required.

If the arrested youth is not charged, the DNA sample collected must not be submitted to the Michigan Department of State Police. If the DNA sample was already received by the Michigan Department of State Police, the law enforcement agency must notify the Michigan Department of State Police to destroy the DNA sample. If the youth's charge is dismissed or resulted in an acquittal, the law enforcement agency and the prosecutor must request that the DNA sample and any DNA profile be destroyed.

### ***Motion to Destroy DNA Profile and Sample***

When a charge or charges against a youth have been dismissed or a youth has been acquitted of an offense or offenses in a case and does not know if his or her DNA profile and sample has been destroyed as required by law, the youth may request a hearing by completing MC 443, Motion to Destroy DNA Profile and Sample. After a hearing, the court will issue MC 444, Order to Destroy DNA Profile and Sample, either ordering the arresting agency and Michigan State Police to immediately destroy the sample and provide certification of destruction to the court or that the sample shall not be destroyed.

### Upon Adjudication or Conviction

Youth who have been **adjudicated for or convicted of** a felony, attempted felony or one of the following listed misdemeanors or local ordinances that are substantially corresponding to the following misdemeanors, must have a DNA sample collected:

- Disorderly person by window peeping, engaging in indecent or obscene conduct in public, or loitering in a house of ill fame or prostitution, MCL 750.167(1)(c),(f), or (i).
- Indecent exposure, MCL 750.335a.
- First and second prostitution violations, MCL 750.451.

**Note:** To determine if an offense meets the definition of a felony or attempted felony, compare the youth's offense to the Michigan Penal Code, 1931 PA 328 and/or the Michigan Public Health Code, 1978 PA 368 and review the punishment designated for the offense. If the offender may be punished by imprisonment for more than one year or the law specifically states that the offense is a felony, a DNA sample is required.

Youth who have been **convicted** of one of the following listed misdemeanors or local ordinances that are substantially corresponding to the following misdemeanors, must have a DNA sample collected:

- Leasing a house for purposes of prostitution, MCL 750.454.
- Person who, for a purpose other than prostitution, takes or conveys to, or employs, receives, detains, or allows a person 16 years of age or less to remain in a house of prostitution, MCL 750.462.

Youth who have been **adjudicated for** the misdemeanor of Criminal sexual conduct IV, MCL 750.520e, or a local ordinance that substantially corresponds to criminal sexual conduct IV, MCL 750.520e must have a DNA sample collected.

## REVIEW OF ORDER FOR DNA SAMPLE AND/OR CRIMINAL HISTORY RECORD

When a youth under the care and supervision of MDHHS is required by law to provide a DNA sample, the juvenile justice specialist must determine if a DNA sample has been collected by:

- Obtaining a copy of the MC 283, Order for DNA Sample, from the court. If the Certification and Return section of the MC 283 is signed and dated by the law enforcement agent/Sheriff with

the box checked "was not taken because the Department of State Police already has a DNA sample of the defendant/juvenile," no further verification is necessary. The copy of the MC 283 must be submitted along with the DHS-62, Delinquent Youth DNA Profile Verification, for supervisory approval. Upload the MC 238 and approved DHS-62 in MiSACWIS and file in the legal section of the youth's case record.

- Reviewing the Criminal History Record in the Law Enforcement Information Network (LEIN) when a copy of the MC 283, Order for DNA Sample, is not available; see [JJM 280, LEIN Checks](#) for details on how to complete a LEIN request.

#### **DNA Record Available - Yes**

When the Criminal History Record field "DNA RECORD AVAILABLE" equals "YES", the Michigan Department of State Police already has a DNA sample that meets statutory requirements. The juvenile justice specialist must submit the Criminal History Record result along with the DHS-62, Delinquent Youth DNA Profile Verification, for supervisory approval prior to completing LEIN Document Disposal. Upload the approved DHS-62 in MiSACWIS and file in the legal section of the youth's case record.

#### **DNA Record Available - No**

When the Criminal History Record field "DNA RECORD AVAILABLE" equals "NO," the juvenile justice specialist must contact the investigating law enforcement agency responsible to collect the sample to make arrangements for collection to occur.

#### **Verification of DNA Profile**

Upon obtaining information that the DNA sample collection and submission has been completed by the investigating law enforcement agency, the juvenile justice specialist must repeat the Review of Criminal History Record by requesting a LEIN clearance to verify that the Criminal History Record field "DNA RECORD AVAILABLE" equals "YES." The juvenile justice specialist must submit the Criminal History Record result along with the DHS-62, Delinquent Youth DNA Profile Verification, for supervisory approval

prior to completing LEIN Document Disposal. Upload the approved DHS-62 in MiSACWIS and file in the legal section of the youth's case record.

## **SAMPLE COLLECTION**

When a DNA sample is required and the record does not contain verification that the collection has been completed, the juvenile justice specialist must work with the investigating law enforcement agency and placement provider to coordinate sample collection. Pursuant to MCL 803.307, the youth must not be released from placement in a facility to a community-based placement until the DNA sample has been collected. The youth must also not be discharged from wardship until the DNA sample has been collected. When a sample is required for a youth under the care and supervision of MDHHS, the investigating law enforcement agency is the designated agency to collect the sample.

The investigating law enforcement agency must collect the sample and submit it to the Michigan Department of State Police within 72 hours. Pursuant to Mich Admin Code, R 28.5053(5)(f), the collection and submission of the sample must be completed within 30 days of the youth's acceptance date.

The Michigan Department of State Police, CODIS Section, is responsible for profiling the DNA sample and maintaining profile records. Questions about the DNA collection process may be directed to:

Michigan State Police  
CODIS Section  
7320 N. Canal Rd.  
Lansing, MI 48913  
Phone: 517-636-0465  
Fax: 517-636-0491  
Email: [MSPCODIS@michigan.gov](mailto:MSPCODIS@michigan.gov)

## **Payment to Obtain Sample and Forensic Tests**

The DHS-93, Examination Authorization/Invoice for Services, can be used to process payment for the cost of obtaining the DNA sample that is sent to the Michigan Department of State Police for profiling. The DHS-93 must be used only for the DNA sample collection procedure required to complete the DNA collection kit

(blood, saliva, or tissue collection). The Michigan Department of State Police completes the actual DNA profiling.

The DHS-93 can be used for other required forensic testing. Refer to the following for procedures and codes:

- Service Funding and Payments Manual, [SRF 801, Medical Service Authorization Fee Schedule](#), provides coding in Section VII - DNA Gene Coding for BJJ.
- [SRF 800, Medical Service Authorization](#).
- Use the DHS-94, Medical Services Authorization Provider Enrollment/Other Change, to enroll medical providers for services authorized on the DHS-93.

**Note:** A contract provider cannot be enrolled as a medical services provider to pay for services that are already covered by their contract.

## COURT-ORDERED FEES

A fee of \$60.00 must be assessed by the court upon adjudication or conviction of the listed offenses. The JJS must inform the youth of his/her responsibility to pay the fee and that failure to pay may result in court action against the youth. The court may suspend all or part of the assessment fee if it determines that the youth is unable to pay.

## LEGAL BASE State

**The DNA Identification Profiling System Act, 1990 PA 250, as amended, MCL 28.176(1)(a).**

Except as otherwise provided in this section, the Michigan State Police shall permanently retain a DNA identification profile of an youth obtained from a sample in the manner prescribed by the Michigan Department of State Police under this act if the youth is arrested for committing or attempting to commit a felony offense or an offense that would be a felony offense if committed by an adult.

The Probate Code, 1939 PA 288, as amended, MCL 712A.18k.

Provides specific information on when a DNA sample should be obtained and the agency designated to collect a sample. Details the DNA assessment fee and how it is ordered and when it can be waived.

**The Juvenile Facilities Act, 1988 PA 73, as amended, MCL 803.225a.**

Provides DNA sample collection requirements for juveniles who are under the supervision of the department of a county juvenile agency under section 18 of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.18 and have been found responsible for or convicted of certain offenses. Prohibits a youth to be released to a community placement of any kind or discharged from wardship until DNA samples have been collected. Provides which samples are required to be collected by the designated agency and required assessment fees.

**The Youth Rehabilitation Service Act, 1974 PA 150, as amended, MCL 803.307a.**

Provides specific details on when a public ward cannot be placed in a community placement of any kind and shall not be discharged from wardship until he or she has provided a DNA sample.

Provides information on which offenses require a DNA sample, authorized disclosure of DNA profiles, and when a DNA assessment fee can be ordered.

**Forensic Science Division DNA Profiling System, Mich Admin Code, R 28.5051-28.5059.**

Identifies requirements to collect samples from certain juvenile offenders and designates the investigating law enforcement agency as responsible to complete the sample collection.

**CONTACT**

Policy clarification questions may be submitted by juvenile justice supervisors and management to [Juvenile-Justice-Policy@michigan.gov](mailto:Juvenile-Justice-Policy@michigan.gov).